

## Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 L-03 SCS-03 SCA-01 PM-07 CIAE-00 INR-10

NSAE-00 RSC-01 DRC-01 /047 W  
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R 182013Z JUN 74

FM AMEMBASSY MEXICO  
TO SECSTATE WASHDC 2240  
INFO CSA WASHDC  
CSAF WASHDC  
CNO WASHDC  
DIA WASHDC

C O N F I D E N T I A L MEXICO 5090

CSA FOR JAGW, CSAF FOR AFJALB, CNO FOR JAGN, DIA FOR AA

E.O. 11652: GDS

RAGS: MILI, CASC, MX

SUBJ: U.S. MILITARY PERSONNEL ARRESTED OR IMPRISONED IN  
MEXICO

REF: A. MEXICO 1781 B. STATE 104161

1. RECENT PROBLEMS INVOLVING THIS SUBJECT RAISE BASIC  
QUESTIONS AS TO AUTHORITY AND CLEARANCE PROCEDURES FOR  
U.S. MILITARY PERSONNEL NOT ASSIGNED TO MEXICO COMING HERE  
FOR PURPOSE OF RENDERING VARIOUS TYPES OF ASSISTANCE TO  
U.S. MILITARY PERSONNEL CONFINED IN MEXICAN JAILS.

2. SUBJECT OF REFTELS (WHICH RELATES TO BUT IS ONLY ONE  
PART OF THIS MULTI-FACETED ISSUE) CONCERNS PRESENCE OF  
U.S. MILITARY OBSERVERS AT TRIAL IN MEXICAN COURTS OF U.S.  
SERVICEMEN. DEPARTMENT'S GUIDANCE (PARA 2, REFTEL B) SAYS  
EMBASSY MAY APPROPRIATELY ASSIST MILITARY PERSONNEL FOR  
PURPOSES OF DEVELOPING FULL REPORT ON CASES. ASSISTANCE  
IS DESCRIBED IN TERMS OF "VISITING THE DETAINED PERSONNEL,  
CONSULTATION WITH MEXICAN ATTORNEYS", ETC. GUIDANCE DOES  
NOT MAKE CLEAR WHETHER VISITS, CONSULTATION, ETC. SHOULD BE  
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PERFORMED BY EMBASSY OFFICERS, VISITING U.S. MILITARY

PERSONNEL, OR BOTH. ACTION REQUESTED: PLEASE CLARIFY POINT RAISED ABOVE.

3. LARGER ISSUE CONFRONTING EMBASSY IS ILLUSTRATED BY RECENT REQUEST FROM JUDGE ADVOCATE GENERAL (JAG) OF AIR TRAINING COMMAND, WHO HAS BEEN DESIGNATED BY USAF TO IMPLEMENT DOD REGULATIONS FOR USAF, FOR PROMPTER EMBASSY CLEARANCE FOR "ROUTINE VISITS" BY USAF PERSONNEL TO THAT SERVICE'S PERSONNEL DETAINED IN MEXICO. (WE BELIEVE PRINCIPLES INVOLVED WOULD APPLY TO OTHER SERVICES AS WELL AS USAF.) DOD REGULATIONS REQUIRE ROUTINE VISITS TO USAF PERSONNEL WHEREVER IMPRISONED (INCLUDING MEXICO) TO PROVIDE A RANGE OF SERVICES TO SUCH PRISONERS, INCLUDING MEDICAL-DENTAL EXAMINATIONS OR TREATMENT, LEGAL ADVICE, SERVICES OF CHAPLAINS, ETC.

4. EMBASSY UNDERSTANDS ABOVE-MENTIONED DOD REGULATIONS WERE FORMULATED PRIMARILY FOR USE IN COUNTRIES WITH WHICH THERE IS SOFA AND THAT NO SPECIAL REGULATIONS EXIST FOR COUNTRIES SUCH AS MEXICO, WHERE THERE IS NO SOFA.

5. A SEPARATE PROBLEM EXISTS WITH RESPECT TO U.S. MILITARY PERSONNEL ACTIVITIES ON BEHALF OF U.S. SERVICEMEN WHO ARE ARRESTED ON RELATIVELY MINOR CHARGES IN MEXICAN BORDER CITIES. PRACTICE HAS LONG BEEN FOR U.S. MILITARY TO CROSS BORDER, APPARENTLY ON INFORMAL BASIS THROUGH COOPERATIVE UNDERSTANDING WITH LOCAL MEXICAN OFFICIALS, TO ASSIST DETAINED U.S. MILITARY INVOLVED IN MINOR VIOLATIONS (E.G., ASSAULT AND BATTERY, DISORDERLY CONDUCT) AND, IN MANY CASES, SECURE RELEASE OF DETAINEES AND RETURN THEM TO THE U.S. EMBASSY HAS NO KNOWLEDGE THAT THESE INFORMAL ARRANGEMENTS, WHICH SEEM TO WORK WELL, ARE FORMALIZED IN ANY AGREEMENT BETWEEN THE TWO GOVERNMENTS.

6. THERE APPEARS TO BE A QUESTION OF LEGALITY IN EMBASSY "CLEARANCE" FOR U.S. MILITARY PERSONNEL ENTERING MEXICO TO PERFORM RESPONSIBILITIES SET FORTH IN PRESENT DOD REGULATIONS. A U.S. MILITARY PHYSICIAN OR LAWYER, FOR EXAMPLE, COULD NOT LEGALLY PRACTICE HIS PROFESSION IN MEXICO AND EMBASSY "CLEARANCE" WOULD APPEAR TO BE MEANINGLESS UNLESS  
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BASED UPON GOM CONCURRENCE. THE EMBASSY IS INCLINED TO DOUBT THAT CONCURRENCE WOULD BE FORTHCOMING FROM THE HIGHLY NATIONALISTIC MEXICAN BUREAUCRACY OR, IF FORTHCOMING, THAT IT WOULD BE PROMPT.

7. IT APPEARS TO EMBASSY THAT THERE IS A BASIC CONFLICT BETWEEN DOD REGULATIONS AND MEXICAN SOVEREIGNTY, IN THE ABSENCE OF A SOFA. PRESENT PRACTICES (PARA 5 ABOVE) AS

REGARDS HANDLING OF MINOR VIOLATIONS BY U.S. SERVICEMEN SEEM TO WORK WELL AND EMBASSY THINKS IT WOULD BE REGRETTABLE TO RISK ENDING THESE IN AN EFFORT TO REGULARIZE THE SITUATION BY SEEKING APPROVAL BY THE GOM OF DE FACTO PROCEDURES. ON THE OTHER HAND, EMBASSY IS UNCERTAIN OF ITS AUTHORITY TO GRANT -- OR OF THE WISDOM OF GRANTING -- "CLEARANCE" FOR THESE PROCEDURES OR FOR THE "ROUTINE VISITS" DESCRIBED IN PARA 6 ABOVE WITHOUT THE KNOWLEDGE AND ACQUIESCENCE OF THE GOM.

8. POSSIBLE COURSES OF ACTION -- NOT NECESSARILY MUTUALLY EXCLUSIVE -- APPEAR TO BE THE FOLLOWING:

A) REQUESTING CONCURRENCE OF THE GOM ON EACH VISIT BY U.S. MILITARY PERSONNEL TO FULFILL REQUIREMENTS OF DOD REGULATIONS;

B) CONTINUING PRESENT PRACTICES (IN WHICH EMBASSY CLEARANCE HAS NOT HERETOFORE BEEN SOUGHT) FOR DEALING WITH MINOR CASES ALONG THE BORDER;

C) REVISION OF DOD REGULATIONS TO ELIMINATE REQUIREMENTS, WHICH SEEM TO CONFLICT WITH MEXICAN LAW, WITH RESPECT TO MEXICO;

D) CONSIDERING SHIFTING RESPONSIBILITIES, AS PRACTICABLE, UNDER DOD REGULATIONS TO U.S. CONSULAR OFFICERS ACCREDITED IN MEXICO.

9. EMBASSY CONSIDERS COMBINATION OF B, C, AND D MOST PRACTICAL SOLUTION AND ONE NOT REQUIRING TOO BURDENSOME A WORKLOAD ON PART OF CONSULAR PERSONNEL, CONSIDERING PRESENT SMALL NUMBER OF MILITARY PRISONERS INVOLVED.  
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10. ACTION REQUESTED: EMBASSY IS EAGER TO PROVIDE ASSISTANCE TO U.S. MILITARY AS NEEDED AND PRACTICABLE, BUT URGENTLY REQUESTS DEPARTMENT'S GUIDANCE ON FOREGOING.  
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## Message Attributes

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**TAGS:** MILI, CASC, US, MX  
**To:** STATE  
**Type:** TE  
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